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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/804,184   | 03/19/2004  | Jeff G. Greger       | 061270-0915         | 6757             |
| 22428  | 7590        | 01/12/2005           | EXAMINER            |                  |
| FOLEY AND LARDNER<br>SUITE 500<br>3000 K STREET NW<br>WASHINGTON, DC 20007 |             |                      | NGUYEN, KIEN T      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3714                |                  |

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/804,184

Applicant(s)

GREGER ET AL.

Examiner

Kien T. Nguyen

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11 and 15-23 is/are rejected.
- 7) ☒ Claim(s) 4, 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/02/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 112***

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Line 2, limitation "the first and second rear" lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Piaget et al U.S. Patent 5,419,747.

Piaget al disclosed a swing comprising a swing frame (22); two swing handles (18) rotationally coupled to the swing frame such that each handle may rotate about a respective handle rotational axis between at least two positions, each of the handles having a hand grip portion (66); the swing frame is an open top swing frame having two opposing handle support structures (34), wherein each of the handles is rotationally coupled to a respective one of the opposing handle support structure. The handles may rotate about a handle rotational axis between at least two positions, the at least two positions including a first position being rotated about 180° relative to the second position; the first position is a top position and the second position is a bottom position, the top position being directly above the bottom position.

Art Unit: 3714

Claims 1, 3, 5, 7-11, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Potyondy U.S. Patent 4,036,489.

Handles (20) of Potyondy meet all of the structural limitations of the claimed invention. Regarding claims 5 and 14, Potyondy also shows a handle support structure (21), and each handle (13) having a support interface portion (24).

Claims 17, 18, and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Krueger et al U.S. Patent 4,948,120.

Krueger et al disclosed a swing comprising a swing frame (11) comprising at least one leg with a length adjustment mechanism (19, 20) that allows the leg to be adjustable in length, a seat (25) coupled to the swing frame to enable swinging motion of the seat relative to the frame. The leg (11) includes a first portion (11a) and a second portion (11b) slidably positioned within the first portion, a biased protrusion (19) of the first portion and multiple holes (20) on the second portion (11b) sized to receive the protrusion.

Claims 7, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Pinch et al U.S. Patent 5,378,196.

Pinch et al ('196) disclosed a swing having a swing frame (22); at least one handle (20) coupled to the frame such that the handle may rotate about a handle rotational axis between two position, the first position being rotated about 180° relative to the second position; Figs. 1, 2, 4-6 show first and second rear legs (26) and first second housings (56, 66) (Fig.4), the first and second rear legs pivotally connected the first and second housings, respectively; a rear leg fold mechanism (240) (Fig. 5) that

Art Unit: 3714

pivotally connects the first and second rear legs to the first and second housings, respectively.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krueger et al.

It is noted that Krueger et al disclosed only one protrusion with a plurality of holes instead of multiple protrusion and a hole as set forth in these claims. However, such difference is merely a mechanical expediency and reverse design of Krueger et al. Furthermore, Krueger et al indicated that other length adjustment mechanisms could be used (see column 3, lines 20-25). Accordingly, it would have been a matter of design to reverse the design of the protrusion and holes of Krueger et al with the reverse design to perform the same function.

Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potyondy in view of Pinch et al ('196).

It is noted that first and second legs (11) (see Fig. 2) of Potyondy are not pivotally connected to first and second housings (24). However, Pinch et al disclosed a swing having first and second legs (24, 26) pivotally connected to housings (56, 66) as shown in Figs. 4 and 5. Accordingly, it would have been a matter of design choice to modify

Art Unit: 3714

the legs of Potyondy with the pivotally movement as taught by Pinch et al for the purpose of saving storage space.

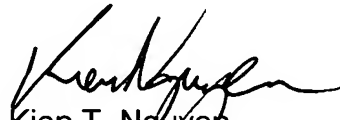
***Allowable Subject Matter***

Claims 4, 12, 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kien T. Nguyen  
Primary Examiner  
Art Unit 3714

Ktn